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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1937

No. 45

PHILLIPS-JONES CORPORATION, INDIVIDUALLY, AND ANNIE G. PHILLIPS, ET AL., PETITIONERS,

vs.

C. S. PARMLEY, C. H. PARNELL, EFFIE E. SCOTT, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED MAY 7, 1937.

CERTIORARI GRANTED JUNE 1, 1937.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 22, 1937.
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[fol. 1]

IN UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARCH TERM, 1935

In Equity. No. 7715

PHILLIPS-JONES CORPORATION, Individually, and ANNIE G. PHILLIPS, Seymour J. Phillips and Abraham S. Phillips, Surviving Executors under the Will of I. L. Phillips, Deceased, Plaintiffs,

v.

C. S. PARMLEY, C. H. PARNELL, EFFIE E. SCOTT, I. A. COOMBE, T. H. Coombe, Roy Updegrave, Alvaretta Updegrave, Administratrix of the Estate of R. R. Updegrave, Deceased, and Margaret Wilkinson, Administratrix d. b. n. c. t. a. of the Estate of B. C. Guldin, Deceased, Defendants

U. J. Mengert, Esq., Montgomery & McCracken, Esqs.

J. C. Noonan, Esq., for C. S. Parmley. P. Wallis, Esq., for E. E. Scott.

DOCKET ENTRIES

May 22, 1933. Bill of complaint filed.

May 22, 1933. Subpœna exit, returnable June 12, 1933.

June 5, 1933. Subpœna returned: on May 23 served Thomas Noonan, on May 24, served C. S. Parmley, C. H. [fol. 2] Parnell, I. A. Coombe, T. H. Coombe and Roy Updegrave, A. Noonan and R. R. Updegrave, deceased; Alice Guldin not found, E. E. Scott, not requested to serve—and filed.

June 6, 1933. Appearance of J. C. Noonan Esq. for C. S. Parmley, filed.

June 13, 1933. Answer by C. S. Parmley filed.

June 16, 1933. Appearance of Philip Wallis Esq. for E. E. Scott filed.

Oct. 5, 1933. Answer by E. E. Scott filed.

Apr. 12, 1935. Notice of motion to amend filed.

Apr. 12, 1935. Plaintiffs' motion to amend bill of complaint filed.

Apr. 12, 1935. Order of court allowing amendment, substituting certain parties and dismissing bill as to Austin Noonan and Thomas Noonan, Executors etc. without prejudice, filed.

DOCKET ENTRIES—Continued

Apr. 16, 1935. Amended Bill of Complaint filed.

Apr. 16, 1935. Subpœna exit—returnable May 6, 1935.

Apr. 25, 1935. Answer of C. S. Parmley to amended bill of complaint filed.

Apr. 29, 1935. Answer of E. E. Scott to amended bill of complaint filed.

May 1, 1935. Præcipe to place case on trial list filed.

May 11, 1935. Appearance of P. B. Roads, Esq., for Margaret Wilkinson, Admx., filed.

[fol. 3] May 11, 1935. Motion by Margaret Wilkinson, Admx., etc. to dismiss amended bill filed.

May 11, 1935. Præcipe to place case on argument list filed.

May 21, 1935. Præcipe to place case on argument list filed.

July 9, 1935. Subpœna returned: On Apr. 22, 1935, served A. Updegrave and on Apr. 23, 1935, served M. Wilkinson and filed.

Mar. 20, 1936. Argued sur motion to dismiss amended bill of complaint.

Apr. 16, 1936. Opinion, Dickinson, J., dismissing bill of complaint for want of equity filed.

May 11, 1936. Petition of plaintiffs for rehearing and order of Court granting rule to show cause thereon filed.

June 24, 1936. Answer of Margaret Wilkinson, Admx. etc. to petition for rehearing filed.

June 24, 1936. Argued sur petition for rehearing.

July 7, 1936. Opinion of Dickinson, J., denying motion for re-argument filed.

July 27, 1936. Decree dismissing Bill of Complaint filed.

July 27, 1936. Assignment of Errors filed.

July 27, 1936. Petition for Appeal filed.

July 27, 1936. Decree granting appeal filed.

Aug. 5, 1936. Bond sur appeal in $250.00 with National Surety Corp. surety and Decree approving bond filed.

[fol. 4] Aug. 5, 1936. Citation allowed and issued.

Aug. 5, 1936. Copy of notice of appeal filed.

Aug. 15, 1936. Præcipe for Transcript of record filed.

Sept. 4, 1936. Order of Court extending return day of citation for fifteen days filed.

Sept. 8, 1936. Citation returned with Marshal's return of service and filed.

[fol. 5] IN UNITED STATES DISTRICT COURT

[Title omitted]

AMENDED BILL OF COMPLAINT—Filed April 16, 1935

To the Honorable the Judges of the District Court of the United States for the Eastern District of Pennsylvania:

Plaintiffs bring this their amended bill against defendants and complain and say:

1. Plaintiff, Phillips-Jones Corporation, is incorporated and exists under the laws of the State of New York and is [fol. 6] a citizen thereof and has its principal place of business at 1225 Broadway, New York City, in said State.

2. Plaintiffs, Annie G. Phillips, Seymour J. Phillips and Abraham S. Phillips, are the surviving duly qualified and acting executors under the will of I. L. Phillips, deceased. Said I. L. Phillips died a citizen and resident of the county and State of New York on November 22, 1923. Said Annie G. Phillips is a citizen of the State of New York and resides at 16 West Seventy-seventh Street, New York City, in said State. Said Seymour J. Phillips is a citizen of the State of New York and resides at 7 Wensley Drive, Great Neck, Long Island, in said State, and said Abraham S. Phillips is a citizen of the State of New York and resides at 888 Park Avenue, New York City, in said State.

3. Defendant, C. S. Parmley, is a citizen of the State of Pennsylvania and resides at Mahanoy City, in said State.

4. Defendant, C. H. Parnell, is a citizen of the State of Pennsylvania and resides at Minersville, in said State.

5. Defendant, Effie E. Scott, is a citizen of the State of Pennsylvania and resides at Minersville in said State.

6. Defendant, I. A. Coombe, is a citizen of the State of Pennsylvania and resides at Minersville, in said State.

7. Defendant, T. H. Coombe, is a citizen of the State of Pennsylvania and resides at 613 Magnolia Avenue, Aldan, Delaware County, in said State.

8. Defendant, Roy Updegrave, is a citizen of the State of Pennsylvania and resides at Valley View, in said State.

[fol. 7] 9. Defendant, Alvaretta Updegrave, is administratrix of the estate of R. R. Updegrave, deceased, and is